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A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
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July 14, 1992

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Mr. LeRoy G. Hagenbuch,
President
Philippi-Hagenbuch, Inc.
424 W. Plank Road
Peoria, IL 61604

Re: U.S. Patent No. 4,839,835 - Our Ref. 16842
Maintenance Fee Due : December 13, 1992

Dear Mr. Hagenbuch:

Your above-identified patent, issued on an application filed after August 27, 1982, is subject to U.S. government maintenance fee requirements. Such fees are due three times during the 17 year life of the patent, with the first fee being due 3-1/2 years after the patent issues; i.e., on or before the due date indicated above. Although there is a re-issue application pending pertaining to this issued patent, the maintenance fees must be paid in the issued patent in order to keep the reissue in force until it issues. The total cost of paying the maintenance fee is **\$550.00**, which includes the government fee of \$450.00, assuming that your company still qualifies as a "small entity" (see attachment), and our service charge of \$100.00.

If the maintenance fee is not paid, the patent will lapse and become inoperative. If you would like us to pay this fee, please indicate your authorization on the attached copy of this letter and return it to us. If your check for payment accompanies this authorization, you may deduct \$25.00 from our service charge. To insure timely payment of the fee, your authorization must be received in our **Chicago** office one month prior to the above due date. If we do not hear from you, we will take no further action in connection with this patent.

Very truly yours,

Suzanne I. Moore
U.S. Docket Clerk

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July 14, 1992

U.S. Patent No. 4,839,835 - Our Ref. 16842

Small Business Concern is defined by the Small Business Administration as follows:

S 121.12 Small business for paying reduced patent fees.

Pursuant to Pub. L. 97-247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41(a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent of:)	
HAGENBUCH)	
)	
No. 4,839,835)	
)	
Issued: June 13, 1989)	Attn: Maintenance
)	Fee Division
For: APPARATUS AND METHOD)	
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VERIFIED STATEMENT PURSUANT TO 37 C.F.R. § 1.28(c)
EXPLAINING ERROR IN CONNECTION WITH SMALL ENTITY STATUS

This verified statement is made by LeRoy G. Hagenbuch in connection with the accompanying "Notification Pursuant to 37 C.F.R. §§ 1.28(b) And (c) Of Loss Of Entitlement Of Small Entity Status And Error In Payment Of Fee As A Small Entity" (hereinafter "the Notification").

1. I, LeRoy G. Hagenbuch, am the sole inventor and owner of U.S. Patent No. 4,839,835 (hereinafter "the '835 patent"). I also am Chairman of Philippi-Hagenbuch, Inc., 7424 West Plank Road, Peoria, Illinois 61604-5295. At the time patent application for the '835 patent was filed, I was President of Philippi-Hagenbuch, Inc. I executed the two small entity statements filed with the application. One was executed by me as the inventor and the other was executed by me as a representative of Philippi-Hagenbuch, Inc.

2. I have read the Notification. All of the statements in it of which I have personal knowledge are correct to the best of my recollection. For those statements of which I have

In re HAGENBUCH
U.S. Patent No. 4,839,835

no personal knowledge, they are consistent with my understanding and recollection of the events that lead to the erroneous payment of the first maintenance fee of the '835 patent pursuant to a small entity status.

3. I am either a sole or co-inventor for a number of U.S. patents for which the due dates for payment of the maintenance fees are all docketed and monitored by Leydig, Voit and Mayer. In this regard, over the last several years I have received many letters from the docketing department of Leydig, Voit & Mayer reminding me of fees due for both U.S. and foreign patents and patent applications and requesting instructions regarding the payment of those fees. I recognize these letters by their format. I long ago stopped completely reading each of these letters (e.g., the attachment) after I realized they always said substantially the same thing.

4. Although I have no specific memory of it, I recognize the letter of Exhibit A attached to the Notification as a letter I received requesting instructions for the payment of the first maintenance fee for the '835 patent. Pursuant to the format of the letter, I signed its second page and marked a box above my signature authorizing payment of the maintenance fee. I then returned the letter to Leydig, Voit & Mayer. Like the letters I previously received from Leydig, Voit & Mayer, the letter of Exhibit A attaches a statement defining a "small entity." At the time I authorized payment of the maintenance fee for the '835 patent, however, I was not

In re HAGENBUCH
U.S. Patent No. 4,839,835

aware that the Caterpillar license agreement identified in the Notification affected the entitlement of the '835 patent to payment of the maintenance fee pursuant to a reduced fee schedule. Although I have no specific memory of reading the letter of Exhibit A, I doubt that I read its attachment for the reasons set forth in paragraph 3 herein. Moreover, the letter of Exhibit A states the amount of the fee depends on whether my "company still qualifies as a 'small entity'." My company has always qualified for small entity status in that it has always employed less than 500 employees.

5. I did not appreciate that the payment of the first maintenance fee for the '835 patent pursuant to a small entity fee schedule may have been in error until John B. Conklin of Leydig, Voit & Mayer, one of my attorneys, informed me of the error during a telephone conversation in September of 1995 as described in the Notification.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1101 of Title 18 of the United States Code, and that such wilful, false statements may jeopardize the validity of the '835 patent.

Dated: JANUARY 20, 1996


LeRoy G. Hagenbuch

**Chronology of Hagenbuch U.S. Patent Appln. Serial No. 06/717,042
filed April 1, 1985 (Atty. Docket 16842)**

